IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF OCTOBER,
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION NO : 11066 of 2004

Between:

Muneera W/o Shaik Sardar, age 25 years,
D.No.43/107, Bose Nagar, Rayachoti, Kadapa (District)

..... PETITIONER

AND

1. The Collector & Distrcit Magistrate (Detaining Authority)
   Kadapa, Kadapa District
2. The Government of Andhra Pradesh rep. by its Chief Secretary
   AP. Secretary, Hyderabad
3. Superintendent cherlapalli, Jail, Ranga Reddy District

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction particularly one in the nature of Writ of Hebeas Corpus to produce the petitioner's Husband before the court and to declare the detention order vide No.C1/1206-B/M/03, dated. 17/02/2004 issued by the 1st Respondent as illegal and unsustainable and to set the petitioner at liberty hence forth.

Counsel for the Petitioner:MR.M.RAJASEKHARA REDDY

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court made the following :

ORDER: (Per GB,J).

The order of detention dated 17-2-2004 passed by the District Collector and District Magistrate, Cuddapah, is assailed in this writ petition.

2. The petitioner was detained under Section 3 (1), (2) of the A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers, Act 1986 (Act No.1 of 1986). The grounds as annexed to the order of detention are as follows:

> "You, Sri Shaik Darbar S/o. Khasim Saheb, aged about 35 years, D.No.43/107, Bose Nagar, Rayachoty village and Mandal, Cuddapah District have indulged in illicit cutting and storing of Red Sanders heartwood causing willful destruction of Red causing damage to the public property besides a tremendous loss of national wealth; deplation of green cover resulting in adverse ecological balance having ramification on the health and well being of the public in the following (30 events/cases.
>
> **1) O.R.No.50/2003-04 dated 9-12-2003**
>
> On 9-12-2003 at about 4.00 p.m. while Sri E. Sreenivasulu, Forest Section Officer and other forest staff patrolling the Bungalow Bodu locality in the Vathalur Reserve Forest of Vathalur beat noticed you and your accomplice hiding in the bushes. The Forest officials tried to catch-hold of you, but you ran away from the scene of offence on noticing the officials. On inspection of the area near bushes found Red Sander logs 15 in number weighing 526 kgs valued at Rs.11,572-00. Thus, you and your accomplice entered into Reserve Forest illegally, carried illicit cutting and storage of Red Sanders for transporting. Hence, you were charged u/s.379 IPC (theft of Government property) and Section 20 (i) C II, III and X of A.P. Forest Act, 1967. Thus, it is quite evident that you are committing offences of illicit

cutting and storing of Red Sanders causing willful destruction of valuable and sanders which is endangered species and national wealth.

2) O.R.No.51/2003-04, dated 13-12-2003

On 13-12-2003 at about 3-00 p.m. while Sri E. Sreenivasulu, Forest Section Officer and other forest staff patrolling the Seshachalam Extension Reserve Forest Rollamadugu beat upper side of Pallapet, you along with your accomplice found near the bushes. On noticing the forest officials, you and your accomplice ran away from the scene of offence. On inspection of the area near bushes found Red Sander logs 20 in number weighing 656 kgs valued at Rs.14,432-00. Thus, you and your accomplice entered into Reserve Forest, carried illicit cutting and storage of Red Sanders for transporting. You were charged u/s.379 IPC and Section 20 (i) C II, III of A.P. Forest Act, 1967. Thus, it is quite evidence that you are committing offences of illicit cutting and storing of Red Sanders causing willful destruction of valuable red sanders which is endangered species and national wealth.

3) O.R.No.52/2003-04, dated 15-12-2003:

On 15-12-2003 at about 4-00 a.m. on receipt of reliable information, Sri T. Mallikarjuna, Forest Range Officer, Rajampet along with other forest staff went to west side of N.T. Kunta locality in S.R. Palem beat of Seshchalam Reserve Forest. On noticing the forest officials, you along with your 3 accomplice ran away from the scene of offence. On inspection of the area near bushes found Red Sander logs 42 in number weighing 1330 kgs valued at Rs.29,260/-. Thus, you and your accomplice entered into Reserve Forest illegally, carried illicit cutting and storage of Red Sanders of transporting. You were charged u/s.379 IPC and Section 20 (i) C II, III and X of A.P. Forest Act, 1967. Thus, it is quite evident that you are committing offences of illicit cutting and storing of Red Sanders causing willful destruction of valuable red sanders which is endangered species and national wealth.

It is therefore established that cases booked against you under A.P. Forest laws failed to curb you illegal activities which are found to be dangerous as you were indulging in cutting, storing and transporting the red sanders thus destructing the national wealth. You are therefore a 'Goonda' under Section 2(g) of A.P. Preventionof Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (Act 1 of 1986).

In view of the facts and circumstances stated above, I am satisfied that there exists a case against you for invoking the provisions under A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (Act 1 of 1986) to prevent you from further indulging in the illegal activities.

It is therefore ordered that you shall be detained under Section 3(2)

r/w 3(1) of the said Act. However, you are informed that;

1. You have a right to make representation against this order of detention to the Collector & District Magistrate, Cuddapah i.e., the detaining authority and to the Chief Secretary, Government of Andhra Pradesh, Hyderabad.

2. You are further informed that the matter will be referred to the Advisory Board within three weeks from the date of detention. However, you have a right to make representation in writing to the Advisory Board and also have a right to be heard in person before the Advisory Board, when it is scheduled to meet to consider the matter.

3. It is also informed that you have a right to take the assistance of any person your choice before hearing at Advisory Board, such person not being legal practitioner."

3. The learned counsel for the petitioner however submits that without going into the merits of the case that while considering the case of the petitioner for issuing the order of detention, the detaining authority not only taken into consideration Section 379 IPC, but also Section 20(i) Clause II and III of Andhra Pradesh Forest Act, 1967. Therefore, he submits that reference to Section 20(i) of Forest Act is irrelevant. When once irrelevant ground is considered along with the relevant material, the entire order of detention gets vitiated. Therefore, on this ground the learned Counsel submits that without going into the other merits of the case, the order is liable to be set aside. He also submits that a similar petition was allowed by this Court.

4. The learned Advocate General, however, submits that even the order of detention contains not only provisions of IPC, but also Forest Act and the same is not covered by the Act 1 of 1986 and this Court has allowed one such a writ petition. In view of this, the writ petition is liable to be allowed.

5. Accordingly, the order of detention dated 17-2-2004 is quashed and the detenu shall be set at liberty forthwith if not required in other case.

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(G. BIKSHAPATHY, J.)

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(Ch.S.R.K. PRASAD, J.)

Date: 12-10-2004

ES/KA

To

1. The Collector & Distrcit Magistrate (Detaining Authority)
   Kadapa, Kadapa District

2. The Chief Secretary,Government of Andhra Pradesh, AP. Secretary, Hyderabad.
3. Superintendent cherlapalli, Jail, Ranga Reddy District

4. 2CCs to the Advocate General, High Court Buildings, Hyderabad.(OUT)

5. 2CD copies.

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and

THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

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Dated: 12.10.2004